

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

Ft. Worth Division

ERGUN CANER,

Plaintiff,

v.

JASON SMATHERS,

Defendant.

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Civil Action No. 4:13-cv-00494 (Y)

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**DEFENDANT’S NOTICE OF CONCESSION BY PLAINTIFF TO DEFENDANT’S
NUNC PRO TUNC MOTION FOR ENLARGEMENT OF TIME TO FILE HIS REPLY IN
SUPPORT OF HIS PETITION FOR ATTORNEYS’ FEES**

On 6 June 2014 Defendant moved this Court to extend his filing deadline for his Petition for Attorneys’ Fees, Dkt. #54, by two days until 7 June 2014. (Def.’s *Nunc Pro Tunc* Mot. Enlargement of Time to File His Reply Supp. Pet. for Att’ys’ Fees, Dkt. #60 (filed June 6, 2014).) Defendant’s Motion informed the Court that Plaintiff’s counsel had stated that Plaintiff opposed this Motion. Pursuant to Local Rule 7.1(e), Plaintiff’s Opposition was due 27 June 2014. As of this writing, Plaintiff has not filed an Opposition.

It is generally a given that if a contested motion is filed and the non-movant does not file an Opposition, that argument is treated as conceded. *See, e.g., Keaton v. Fairchild*, No. 11-410, 2013 U.S. Dist. LEXIS 43699, at *28 (E.D. Tex. Jan. 31, 2013) (“Plaintiff makes no argument that Mr. Stokes lacked the actual or apparent authority to consent to entry of the home and thus appears to concede Mr. Stokes did, in fact, have the requisite authority.”); *see also Yesudian ex rel. United States v. Howard Univ.*, 270 F.3d 969 (D.C. Cir. 2001) (court may treat a motion as

conceded when an opposition paper is not timely filed); *Cincinnati Ins. Co. v. Centech Bldg. Corp.*, 286 F. Supp. 2d 669, 681 (M.D.N.C. 2003) (considering an argument raised in a motion unopposed where the responding party failed to address the argument).

For the foregoing reasons, Defendant's *Nunc Pro Tunc* Motion for Enlargement of Time to File His Reply in Support of His Petition for Attorneys' Fees, Dkt. #60, should be treated as conceded and the requested relief—namely, allowing him to file his Reply, should be granted.

Date: July 1, 2014

Respectfully submitted,

/s/ Kelly B. McClanahan
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